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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/421,713	10/20/1999	LARRY A. WINTER	8567.72US01	4525

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EXAMINER

ABDI, KAMBIZ

ART UNIT PAPER NUMBER

2161

DATE MAILED: 03/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

*mv*

**Office Action Summary**

Application No.

09/421,713

Applicant(s)

WINTER ET AL.

Examiner

Kambiz Abdi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) \_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 October 1999 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. Claims 1-41 have been examined.

#### *Drawings*

2. The drawings filed on November 20, 1999 are acceptable subject to correction of the informalities indicated below. In order to avoid abandonment of this application, correction is required in reply to the Office action. The correction will not be held in abeyance.
3. The drawings are objected to because figures 1-82 are not acceptable based on being copies of photos or screen captures that renders the utility of them unusable. The drawings are not readable and the hand writings are not clear enough. The screen shots have to be clear and readable drawings, the current submitted drawings do not adhere to the rules currently governing the US 35 1.84. The objection to the drawings will not be held in abeyance.

#### *Claim Objections*

4. Claim 41 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim, or amend the claim(s) to place the claim in proper dependent form, or rewrite the claim(s) in independent form. Claim 41 refers to "step (b) and the bids collected." The examiner can not distinguish that "step (b)" refers to claim 1 or claim 35. Appropriate correction is required.

#### *Claim Rejections - 35 USC § 103*

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 1-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,343,277 to John Gaus et al. over U.S. Patent No. 6,047,274 to Jack J. Johnson et al.

7. As for claims 1-26, 40, and 41, Gaus teaches all of the claimed elements representing utilization of computer system based energy market place. Gaus teaches utilization of graphical interface, Internet as a method of communication. The roles and responsibilities of a moderator within an online energy auction market for energy market with well established steps of collecting bids from all sides, establishing a clearing price, creating and collecting information for settling the transaction, information such as usage from the end users, and collecting contract information, to finalize a transaction between providers of energy and customers (see Gaus figures 1- 3, 5, 7, 11-14, 16-18, 22, also see column 3, lines 13-64, column 4, lines 22-68, column 5, lines 1-68, and column 6, lines 1-68). What Gaus does not explicitly teaches are, details on meter reading and billing process. However, Johnson clearly discloses the system and methods of collecting meter reading at the end user (see Johnson abstract, figures 1, 4, 6, 7, 10-16, column 2, lines 22-57, column 7, lines 15-24, column 8, lines 61-63, column 16, lines 1-13). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to have integrated all the components together in one system. As one can see utilization of a common marketplace which will help the energy providers, energy traders, and end users to benefit from efficient transaction amongst these entities. To provide such an environment it would be obvious how it can benefit to bring all the components of conducting business as such in one environment seamless to the users to expedite the entire transaction. Therefore it the reduction of the cost of conducting an energy marketplace and mediating such a marketplace.

8. As for claims 27-39, Gaus teaches all of the claimed elements disclosed in the claims mentioned here (see Gaus figures 1- 3, 5, 7- 9, 14-18, and 20-22) except Gaus does not explicitly refer to the metering and bill components. Also, Gaus does not explicitly teach the power generation and how the system disclosed will effect power generation. However, Johnson does explicitly teach the elements of metering and billing (see Johnson figures 4, 6, 10, 15, 16, column 3, lines 2-16, column 4, lines 33-40,

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column 7, lines 15-29, column 8, lines 61-63, column 9, lines 55-59, column 10, lines 18-22, and column 16, lines 1-13) as well as disclosing the adjustment of power availability by providers based on end users' actual usage data available to them through the disclosed system (see column 7, lines 15-51). Johnson further teaches that by implementing direct metering and integrating settlement and billing components, it will expedite the speed of transactions and ease of conducting business once all the necessary information and data are aggregated through one system, making the process from the start (i.e. bidding) to the end (i.e. payment) taking place in one seamless operation. Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to have integrated all the components together in one system for the motivation stated above.

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**Conclusion**

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

David Tuck, U.S. Patent No. 6,115,698, Apparatus and Methods for Trading electric Energy.

Yoav Shoham, U.S. Patent No. 6,285,989 B1, Universal On-Line trading Market Design and Deployment System.

Alfred F. Mister Jr., U.S. Patent No. 5,794,212, System and Method for Providing More efficient Communications Between Energy Suppliers, Energy Purchasers and Transaction Providers as Necessary for An Efficient and Non-Discriminatory energy Market.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kambiz Abdi whose telephone number is (703) 305-3364. The examiner can normally be reached on 9:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P Trammell can be reached on (703) 305-9768. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-1396 for regular communications and (703) 308-1396 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.

Abdi/ka  
March 4, 2002



JAMES P. TRAMMELL  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100